

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AUTHORIZING THE IMPOSITION OF THE SANTA BARBARA ESSENTIAL LOCAL SERVICES TAX, SUBJECT TO APPROVAL BY THE ELECTORS, BY THE ADDITION OF CHAPTER 4.15 TO TITLE 4 OF THE SANTA BARBARA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines as follows:

A. The City provides general municipal services and facilities, such as police, fire, parks and recreation, streets, bridges, stormwater protection, libraries, youth and senior programs, a local housing trust fund, homeless services, and other general fund services that are vital to the health, safety, and general welfare of the people of Santa Barbara.

B. The City's revenues are insufficient to fully provide general municipal services and facilities to fully provide general municipal services and facilities, including maintaining 9-1-1 emergency fire, paramedic, and police response, keeping neighborhood fire stations open, improving housing affordability, addressing homelessness, keeping public areas and parks safe and clean, maintaining library services, stormwater protection, improving natural disaster preparedness, retaining local businesses and jobs, and other general governmental uses at the level that is necessary or desirable at the level that is necessary or desirable.

C. The funding made available by this Chapter, together with other available revenues, generate approximately \$15,600,000 to enable the City to maintain its essential general municipal services and facilities and to make payments to its local housing trust fund.

D. The proceeds of the taxes imposed by this chapter may be used for any lawful purpose of the City, as authorized by ordinance, resolution, or action of the City Council or by ordinance adopted by the electorate of the City.

E. The tax established by this ordinance shall not be imposed until approved by the City's electors at an election called for that purpose as required by the California Constitution.

SECTION 2. Title 4 of the Santa Barbara Municipal Code is amended by the addition of Chapter 4.15 which reads as follows:

Chapter 4.15 SANTA BARBARA ESSENTIAL LOCAL SERVICES TAX

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4.15.010 Short Title.

This Chapter shall be known as the Santa Barbara Essential Local Services Tax Act.

4.15.020 Declaration of Findings.

A. The City's revenues are insufficient to fully provide general municipal services and facilities, including maintaining 9-1-1 emergency fire, paramedic, and police response, keeping neighborhood fire stations open, improving housing affordability, addressing homelessness, keeping public areas and parks safe and clean, maintaining library services, stormwater protection, improving natural disaster preparedness, retaining local businesses and jobs, and other general governmental uses at the level that is necessary or desirable.

B. The funding made available by this chapter, together with other available revenues, will enable the City to provide essential local services as described in subsection A, including contributing to the Local Housing Trust Fund, meeting budgeted operating expenses, acquiring necessary supplies, equipment, and materials, and maintaining and repairing City buildings, facilities, parks, and other property.

C. The proceeds of the taxes imposed by this chapter may be used for any lawful purpose of the City, as authorized by ordinance, resolution, or action of the City Council or by ordinance adopted by the electorate of the City.

4.15.030 Purposes.

This Chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

1. To impose a retail transaction and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2.

2. To adopt a retail transaction and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

3. To adopt a retail transaction and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the Department in administering and collecting the California State Sales and Use Taxes.

4. To adopt a retail transaction and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this Chapter.

4.15.040 Contract with State.

Before the operative date of this Chapter, the City will contract with the Board to perform all functions incident to the administration and operation of this chapter; provided, that if the City shall not have contracted with the Board before the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The City Finance Director is authorized to execute contracts under this section.

4.15.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter. The tax imposed by this section is additional to the tax imposed under Chapter 4.14 of this Code.

4.15.060 Place of Sale.

For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his/her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which

the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.15.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of one-half percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

4.15.080 Adoption of Provisions of State Law.

A. Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein, except as otherwise provided in Subsection B.

B. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted, therefore. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the Board, or other agency or department of the State, in performing the functions incident to the administration or operation of this Chapter.

3. In those sections including but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

C. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.

4.15.090 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Chapter.

4.15.100 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transaction tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transaction or use tax.

B. There are exempted from the computation of the amount of transaction tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Chapter.

5. For the purposes of paragraphs 3 and 4 of this Subsection, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Chapter.

5. For the purposes of paragraphs 3 and 4 of this subsection, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the

unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in paragraph 7 of this subsection, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this chapter may credit against that tax any transaction tax or reimbursement for transaction tax paid to a district imposing, or retailer liable for a transaction tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

4.15.110 Amendments to State Law.

All amendments subsequent to the effective date of the ordinance codified in this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

4.15.120 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

4.15.130 Audit.

The proceeds of the tax imposed pursuant to this Chapter, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The audit results may be combined with the audit of other City funds, so long as the proceeds are reported separately. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

4.15.140 Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

4.15.150 Effective and Operative Dates.

This Chapter relates to the levying and collecting of City transaction and use taxes and shall take effect immediately upon adoption by the City Council. However, no tax imposed by this chapter shall be effective unless that tax has been approved by majority vote of the City electorate at an election as required by article XIIC, section 2(b) of the California Constitution and applicable law. Notwithstanding the effective date, this chapter and the tax imposed by it will be operative on the first day of the first quarter commencing 110 days after the date of the election at which the tax is approved (the “operative date”).

4.15.160 Definitions.

As used in this Chapter, the term “City” means the City of Santa Barbara and the term “Board” means the California Department of Tax and Fee Administration.

4.15.170 Termination and Repeal.

The authority to levy the taxes imposed by this Chapter shall be in effect until and unless this Chapter is repealed.

SECTION 3. This ordinance relates to the levying and collecting of City transaction and use taxes and to an election called for the purpose of obtaining voter approval of the tax authorized by this ordinance. This ordinance is effect immediately upon adoption by

the City Council. However, no tax imposed under the chapter adopted by this ordinance will be effective unless that tax has been approved by majority vote of the City electorate at an election as required by article XIII C, section 2(b) of the California Constitution and applicable law. It is the Council's intention, concurrently with the introduction of this ordinance, or as soon thereafter as is feasible, to adopt resolutions and take other actions necessary to place a measure to approve imposition of a transaction and use tax authorized by this ordinance on the ballot of the general election schedule for November 5, 2024.